

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

RAYMOND V. BETHEL, JR.,)	
)	
Petitioner,)	
v.)	Civil Action No. 3:13CV13-HEH
)	
COMMONWEALTH OF VA,)	
)	
Respondent.)	

MEMORANDUM OPINION
(Dismissing Action Without Prejudice)

Petitioner, a Virginia state prisoner, submitted this 28 U.S.C. § 2254 Petition. Before a state prisoner can bring a § 2254 petition in federal district court, the prisoner must first have “exhausted the remedies available in the courts of the State.” 28 U.S.C. § 2254(b)(1)(A). State exhaustion “is rooted in considerations of federal-state comity,” and in the congressional determination via federal habeas laws “that exhaustion of adequate state remedies will ‘best serve the policies of federalism.’” *Slavek v. Hinkle*, 359 F. Supp. 2d 473, 479 (E.D. Va. 2005) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 491–92 & n.10 (1973)). The purpose of exhaustion is “to give the State an initial opportunity to pass upon and correct alleged violations of its prisoners’ federal rights.” *Picard v. Connor*, 404 U.S. 270, 275 (1971) (internal quotation marks omitted).

Exhaustion requires a petitioner to utilize all available state remedies before he or she can apply for federal habeas relief. See *O’Sullivan v. Boerckel*, 526 U.S. 838, 844–48 (1999). As to whether a petitioner has exhausted all available state remedies, the statute notes that a habeas petitioner “shall not be deemed to have exhausted the remedies

available in the courts of the State . . . if he has the right under the law of the State to raise, by any available procedure, the question presented.” 28 U.S.C. § 2254(c).

Petitioner has a variety of state remedies that he can pursue, including filing a state petition for a writ of habeas corpus. Accordingly, by Memorandum Order entered on June 5, 2013, the Court directed Petitioner to show cause why the action should not be dismissed for failure to exhaust his state court remedies.

On August 9, 2013, the Court received another § 2254 petition from Petitioner. The Court also received a series of memoranda from Petitioner. Petitioner fails to explain why he should be excused from complying with the exhaustion requirement. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE. The Court denies a certificate of appealability.

An appropriate Order shall issue.

Date: Sept 23 2013
Richmond, Virginia

HEH /s/
HENRY E. HUDSON
UNITED STATES DISTRICT JUDGE